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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,754	04/09/2004	John Edward O'Neill	JEO-00101	1868
28960 7590 07/29/2008 HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086				
EXAMINER MENDIRATTA, VISHU K				
ART UNIT		PAPER NUMBER		
3711				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,754

Applicant(s)

O'NEILL, JOHN EDWARD

Examiner

Vishu K. Mendiratta

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-12 and 34 is/are allowed.
- 6) ☐ Claim(s) 1-6, 33 and 35-40 is/are rejected.
- 7) ☒ Claim(s) 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date 1/28/08(2), 6/16/08(2)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claim 1-4, 6, 33, 35-37, 39, 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Cheney (4249740) in view of Hasek (6817613).

Claims 1, 35, 37, 40: Cheney teaches a plurality of first game pieces designated by **first** type (queen 22)) having upstanding face and connected to other queens (Fig.3), a plurality of **second** game pieces designated as second type (king 21), a plurality of **third** game pieces designated as third type (King's rook 13. Queen's rook 32), a plurality of **fourth** game pieces designated by a fourth type (King's bishop 14, queen's bishop 31), a plurality of **fifth** game pieces designated by fifth type (king's knight 15, queen's knight 30), a plurality of **seventh** game pieces designated as seventh type (pawns 42-49), a plurality of **sixth** game pieces (time rings Fig.9) of three different colors and associated with all game pieces. Association of these sixth pieces is clearly indicated by Fig.1 as an example of placing these rings on top of all game pieces as required. Cheney also teaches a game board configuration that can be treated as having inner play area and outer play area and generally chess game board have 8x8 configuration.

Cheney teaches all limitations except that it does not teach sixth game pieces in four colors.

Hasek (6817613) teaches and demonstrates a timeline (18) of events having more than four.

As best understood the colors of sixth game pieces in Cheney are demonstrating a time line with respect to past, present and future. It is well known that timeline can be

represented by other than the three demonstrated by Cheney. Time lines are known to be represented by number of years, months, weeks, days and several other ways to indicate past present and future times.

In order to make the game challenging, it would have been obvious to present the Cheney time line in more than three and at least four different sections to be represented by four different colors. One of ordinary skill in art at the time the invention was made would have suggested providing four colored time rings to make the game challenging.

Claims 2, 36: Cheney teaches a game with seven different shapes king, queen, rook, bishop, knight, pawn and rings.

Claims 3, 4: Cheney teaches a game board grid (Fig.11-15) with outer and inner squares. Chess like games have 8x8 cell structure.

Claims 6, 33, 39: Designating game pieces is being interpreted as naming them with certain terms. This does not change the game pieces themselves. Chaney game pieces can be named tree types without any structure change. Shapes of game pieces are personal preference and aesthetic choices. In order to make the game appeal to potential players, it would have been obvious to modify game piece shapes to preference/choice. One of ordinary skill in art at the time the invention was made would have suggested providing game piece shapes according to aesthetic preference and choices.

2. Claims 5, 38 rejected under 35 U.S.C. 103(a) as being unpatentable over Cheney in view of Hasek as applied to claim1 above, and further in view of Comeaux (4046381).

Chaney and Hasek teach all limitations except that it does not provide a random device. Comeaux teaches a die (36).

It is well known in any board game to determine an order of play. The art area recognizes rolling a die to determine who goes first. In order to avoid any confusion and determine who goes first, it would have been obvious to provide a random device such as a die. One of ordinary skill in art at the time the invention was made would have suggested providing a random selection device to determine order of play.

Allowable Subject Matter

3. Claims 7-12, 34 allowed.
4. Claim 41 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 4/21/08 with respect to claims 1-6 have been fully considered but they are not persuasive. Assigning colors to game pieces is common in the art area for differentiating game pieces in order to create variation in the game (See previous rejection).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vishu K Mendiratta/
Primary Examiner, Art Unit 3711

Vishu K Mendiratta
Primary Examiner
Art Unit 3711
